

## Introduction

1. The Zacchaeus 2000 Trust (Z2K) is a London-wide anti-poverty charity. In 2011, we established the *NextDoor* service to help those threatened with homelessness as a result of the Coalition Government's cap on Local Housing Allowance (LHA) and the subsequent Spare Room Subsidy Restriction ("Bedroom Tax") and £500 a week Benefit Cap for families with children. In 2013, we set up *NextDoor Plus* to provide resettling support for those families forced to move home as a result of this policy.

## Overview

2. Between April 2013 and November 2016, 84,000 households were impacted by £500 a week Benefit Cap for families and £350 for single people. Z2K's experience helping hundreds of those affected by this policy, showed that it had a disastrous impact on the lives of some of London's poorest families. In particular, despite ministerial claims to the contrary, we saw many families accrue such high levels of rent arrears that they ended up losing their homes.
3. DWP's initial Impact Assessment of the reduced £440 a week cap estimated that 120,000 households would be affected.<sup>1</sup> This assessment included nothing on the number of children affected or the number affected who are not actually required to work. However, leaked DWP papers suggested it will result in at least 40,000 more children falling below the poverty-line.<sup>2</sup> Only after the legislation had completed its passage through Parliament was this information published. DWP's updated Impact Assessment states that only 88,000 households will be affected.
4. Many of these households are being hit for a second or even third time (after the 2011 LHA caps and original 2013 Benefit Cap). At the same time, tens of thousands more mothers with very young children, disabled claimants and those deemed too ill to work are being hit for the first time. The cap results in vulnerable families facing an almost impossible choice between feeding and clothing their children, heating their homes and paying the rent, as can be seen from the examples we cite.
5. Z2K appreciates that a decision on the principle of the cap and its lower rate has been settled for this Parliament. However, we hope the select committee will agree to recommend that particularly vulnerable households, such as disabled people, homeless families and lone parents none of whom are required to be immediately available for work should be made exempt from the cap as was recommended for full-time carers prior to the Government's decision to do so.

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<sup>1</sup> <http://www.parliament.uk/documents/impact-assessments/IA15-006.pdf>

<sup>2</sup> <http://www.theguardian.com/politics/2015/may/29/household-benefit-cap-plunge-40000-kids-poverty-memo>

## Summary: what is wrong with the cap?

6. Z2K believe that low-income households should receive the Social Security benefits to which they are entitled, and not have them restricted by a cap. However, the Benefit Cap also fails the tests ministers themselves have set for it.

7. *“It incentivises people to move into employment”*

The vast majority of those affected by the cap are not in a position to move into employment. DWP’s own most recent figures show that only 13 per cent of capped households were in receipt of a benefit (JSA) which requires them to be immediately available for work.<sup>3</sup> For the lower cap, DWP estimates that only 21 per cent of those affected are on JSA. These claimants already face benefit sanctions if they are not deemed to be looking for work sufficiently hard enough.

8. *“It’s about making sure families on benefits don’t earn more than those working”*

DWP said that the original £26,000 per year cap was set at that level because it reflected average earnings and was supposed to mean that no unemployed household would receive more in benefits than a working counterpart. Even before the cap, no unemployed household could receive more than a working one in the same circumstances. This is because a family earning £26,000 would actually be entitled to around £14,000 in tax credits benefits.

9. *“The Benefit cap saves money”*

The £500 a week cap was originally said to save £270 million a year.<sup>4</sup> It is now admitted that the cap directly reduced benefit expenditure by only £65 million. Similarly, DWP initially claimed that lowering the cap will save a further £325 million a year. The most recent Impact Assessment now admits that figure will be around £110 million a year from 2017/18 onwards. These figures take no account of the additional costs to local authorities and the local tax payer of having to deal with the thousands of families made homeless as a result of this policy.

10. *“The lower cap will not cause homelessness”*

Analysis by Giles Peaker<sup>5</sup> has shown that at a reduced cap of £23,000 a family with three children would not receive enough Housing Benefit to cover the rent for a three-bedroom social home. For “Affordable Rent” homes, he calculates that even a family with two children would not be able to cover the rent for a two bedroom property. No adequately-sized private rented sector home in London would be affordable to a capped two parent household with two children. With such limited options, it is without doubt that many of those affected will be made homeless.

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<sup>3</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/588082/benefit-cap-statistics-to-november-2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/588082/benefit-cap-statistics-to-november-2016.pdf)

<sup>4</sup> Impact Assessment for the Benefit Cap (DWP, July 2012)

<sup>5</sup> <http://nearlylegal.co.uk/blog/2015/06/an-inconvenient-problem-2/>

## Household Benefit Cap - Latest Statistics

11. DWP initially said the Benefit Cap would impact upon an initial group of 67,000 households. However, by the time its Impact Assessment was published, it had revised down that estimate to 56,000 households losing an average of £91 a week – almost £5,000 a year. These 56,000 households were thought to include around 180,000 children. By the time the cap began to come into effect in April 2013, the total number of households affected had been revised down again to 40,000.
12. DWP reports that between April 2013 and November 2016, 84,000 households across the UK had their Housing Benefit capped.<sup>6</sup> 95 per cent of those households had dependent children. Of those, 46,970 were single parent families and 30,964 were couples with dependent children. It is not possible to be certain how many children have been affected by the cap so far, but the figure will be at least 150,000. Around 44 per cent of those who have been affected live in London.
13. These statistics also show that 20,096 households were affected by the cap at the end of November 2016. This total included 13,486 single parent families and 5,416 couples with dependent children. 16,243 of those 18,902 families had three or more children – 86 per cent of families currently affected. By its very nature the Benefit Cap discriminates against larger families.
14. DWP's initial Impact Assessment in January 2012 estimated that 40 per cent of those affected would be in receipt of JSA. However, this figure was revised down to 34 per cent in July 2012, and the actual proportion in November 2016 was just 13 per cent.<sup>7</sup> This equates to just 2,600 households. The remainder of those currently affected are not actually expected to be in work. This is broken down as follows:
  - 15 per cent were in receipt of ESA (Work-Related Activity Group)
  - 52 per cent were on Income Support (mostly lone parents with young children)
  - 7 per cent were in receipt of Carers Allowance. (From November 2016 onwards, those in receipt of Carers Allowance are now exempt.)
15. The fact that the cap overwhelmingly impacts on those who are not expected to work is one of its most pernicious features. This also explains why nearly half of those currently capped have been so since it was first implemented.<sup>8</sup>
16. Statistics for the proportion of JSA, ESA and Income Support claimants in each London borough are set out in Table 1.<sup>9</sup>

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<sup>6</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/588082/benefit-cap-statistics-to-november-2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/588082/benefit-cap-statistics-to-november-2016.pdf)

<sup>7</sup> Ibid

<sup>8</sup> Hansard, Written Answers (17 September 2015)

<sup>9</sup> Hansard, Written Answers (30 March 2017)

**Table 1**

	<b>Number of capped households 2016/17</b>	<b>Employment &amp; Support Allowance</b>	<b>Income Support</b>	<b>Jobseeker's Allowance</b>	<b>Other</b>
<b>Barking &amp; Dagenham</b>	500	14%	48%	23%	15%
<b>Barnet</b>	800	28%	32%	25%	15%
<b>Brent</b>	1,500	20%	27%	39%	14%
<b>Camden</b>	600	36%	26%	30%	9%
<b>Croydon</b>	700	18%	43%	21%	17%
<b>Ealing</b>	1,300	21%	36%	28%	15%
<b>Enfield</b>	1,200	19%	52%	14%	15%
<b>Greenwich</b>	400	12%	56%	19%	13%
<b>Hackney</b>	1,200	30%	29%	30%	11%
<b>Hammersmith &amp; Fulham</b>	500	29%	34%	27%	10%
<b>Haringey</b>	800	23%	45%	21%	11%
<b>Harrow</b>	300	14%	40%	19%	27%
<b>Hillingdon</b>	500	15%	50%	20%	16%
<b>Hounslow</b>	500	18%	46%	20%	16%
<b>Islington</b>	600	31%	34%	29%	7%
<b>Kensington &amp; Chelsea</b>	500	31%	27%	27%	15%
<b>Lambeth</b>	600	17%	51%	20%	12%
<b>Lewisham</b>	600	16%	53%	17%	14%
<b>Newham</b>	800	21%	39%	23%	17%
<b>Redbridge</b>	400	16%	39%	20%	25%
<b>Southwark</b>	500	25%	52%	15%	8%
<b>Tower Hamlets</b>	900	25%	36%	27%	12%
<b>Waltham Forest</b>	600	16%	40%	31%	13%
<b>Wandsworth</b>	600	22%	34%	30%	15%
<b>Westminster</b>	800	34%	25%	28%	13%

## Z2K's Experience of the Impact of the Cap

17. Z2K has supported nearly 300 London households affected by the Benefit Cap. Many of those households were already affected by the Coalition Government's initial cap on Local Housing Allowance (LHA), which restricted Housing Benefit payments to a maximum of £400 a week, and had left some families facing significant shortfalls in their rent that needed to be made up from other benefits.
18. In advance of the Benefit Cap coming into force, Ministers argued those households affected by it would take steps to either work enough hours to qualify for working tax credit, renegotiate their rent *in situ*, or find alternative accommodation. In Z2K's experience, people in areas of high housing demand are rarely in a position to renegotiate their rents or find somewhere cheaper nearby. Equally, most of the households actually affected by the cap cannot move easily into employment.

### Private Sector Tenants

19. The overwhelming majority of affected households we have seen are families renting privately. Many of those were actually in tenancies brokered by the local authority previously to "prevent" dissuade them from submitting a formal homelessness application. Their homes are expensive because of their location rather than quality. It invariably proved impossible to negotiate a cheaper rent with their landlord. Our advisors tried to help them find more affordable accommodation, but in most cases it proved impossible to find them a tenancy near their home area sufficiently cheaper that it brought them below the Benefit Cap level.

### **Case Study**

"Georgina" is a single mother with three children (aged 4, 7 & 10). Her only income is Social Security benefits and she relies on the support of local friends and family. Her HB was first cut as a result of the LHA caps in 2011, and so, in order to remain close to her support network, she downsized into a 2 bedroom flat at a rent of £330 per week. From August 2013, she was subject to the Benefit Cap and her HB was reduced. After rent and bills Georgina and her three children were left with £128 a week to live on.

20. Z2K helped most of these clients apply for a Discretionary Housing Payment (DHP) to cover the shortfall. While a fair number were initially successful, many were not and these families ended up having to try to make up the difference from other benefits. Inevitably, most of those clients were unable to maintain these payments and quickly accrued rent arrears, which resulted in possession action by their landlord. Some of those we were able to help secure a DHP initially have had their applications to renew the award for a further period rejected.

## Homeless Households

21. A significant number of those we helped were eventually evicted and ended up homeless in temporary accommodation (TA) brokered by their local authority (often at a significantly higher cost than their previous rent). Capped homeless families cannot simply move into something cheaper as giving up their TA placement would almost inevitably result in the authority deciding to cease its duty and ending any “Reasonable Preference” for social housing that had been awarded.

### **Case Study**

Mr & Mrs A have two children under five. Mr A was working as a cleaner in London, but he could not get enough hours to exempt him from the cap. They applied for a DHP, but were unsuccessful. After failing to find other work the family accrued rent arrears and were evicted. Their local authority accepted a homelessness duty towards the family and placed them in TA in High Wycombe. Due to the long journey time, Mr A was no longer able to work his hours as a cleaner and lost his job. He has been unable to find employment in High Wycombe.

- **Z2K believes homeless households in TA should be made exempt from the cap.**

## Lone Parents

22. Many of the families we have seen face significant barriers to entering employment. Most want to work, but are unable to accept low paid and insecure jobs because these did not cater for their family’s needs. Mothers with young children tell us that the lack of affordable childcare severely limits the number of jobs they could apply for, which need to be for a small number of hours during school time. This is almost certainly the reason why the proportion of those hit by the original cap who were on Income Support had risen to more than half (52 per cent) by November 2016, and the estimate it will account for 49 per cent of those capped at the lower level.

### **Case Study**

“Sabina’s” local council accepted a duty to her as homeless and priority need and placed her and her children into TA prior to the original Benefit Cap coming into effect. From 2013 onwards, she was hit by the £500 a week cap. Z2K helped her secure a DHP award towards this shortfall and then an offer of social housing in 2014. However, the tenancy is at a rent of £165 a week, plus non-HB eligible service charges of £20 a week and so she finds herself hit by the lower £440 cap since January. Sabina must pay the £82 a week shortfall, along with the £20 service charge.

- **Lone parents in receipt of Income Support should be exempt from the cap.**

## Disabled / Seriously Ill Households

23. Z2K has advised many clients on ESA who simply could not work as a result of injury, disability or illness, and so were not expected to actively seek employment. As this was usually at the lower Work-related Activities (WRAG) level of ESA, they were not exempt from the cap. They were incapable of escaping the cap by moving immediately into work. However, our advisors were able to help some of those clients successfully apply for a Personal Independence Payment (PIP), which makes them exempt from the cap.

### **Case Study**

“Brenda” suffers from a severe liver condition, which means she is not expected to work and is in receipt of ESA. She was first forced to move as a result of the LHA caps when her reduced HB left her in arrears and she was evicted. Shortly after moving, she was affected by the benefit cap. She was awarded a DHP but this did not cover the whole shortfall. After struggling to meet the shortfall Brenda has accrued arrears and her private landlord began possession proceedings.

24. DWP’s latest quarterly statistics show that 14,609 households who are no longer capped are now in receipt of an exempting disability benefit.<sup>10</sup> This figure represents nearly a quarter of all those no longer affected by the cap. Some of these claimants will have been affected by the cap for months or perhaps even years. While they may be exempt now, these very sick or disabled people may well have accrued rent arrears and other debts while their benefit was previously being capped.

- **Z2K believes that all ESA recipients should be made exempt from the cap.**

## Council & Housing Association Tenants

25. Z2K is also concerned about the number of council or housing association tenants affected by the lower cap, and the potential loss of this security of tenure.

### **Case Study**

“Sara” and her children were affected by the £500 a week cap prior to 7<sup>th</sup> November. She was already paying £50 a week towards the rent of her local authority flat. Once the lower cap was implemented, she was required to pay £110 a week towards her rent, which she was unable to afford. After just two months, she was served with Notice of Seeking Possession by her local authority. Sara had never been awarded a DHP. The possession action was only stopped at the last moment.

<sup>10</sup> <https://www.gov.uk/government/statistics/benefit-cap-number-of-households-capped-to-november-2016>

## DWP Review of the cap

26. In 2014, DWP published its review of the first year of the Benefit Cap. Given the rhetoric that preceded the cap's introduction, it is no surprise the report concluded that, *"the evaluation reports show evidence of behavioural change. The movement into work for those households affected by the Benefit Cap is higher than movement into work by a comparable group of households not affected by the cap."*<sup>11</sup>
27. The statistical basis for this claim that the Benefit Cap has increased the proportion of households moving into employment were the following findings:
- 19 per cent of capped households in the May 2013 cohort were in work after a year compared to 11 per cent for a similar uncapped group.
  - After controlling for a range of observable differences, capped households were 4.7 percentage points more likely to enter employment than uncapped ones.
28. Z2K is not persuaded these "findings" support the conclusion reached. The study does not identify the actual causal factors that explain why more capped households than uncapped ones are moving into work. The proxy used to identify households moving into employment (starting a claim for Working Tax Credits) is at best an inexact measure. And the numbers of claimants involved is actually rather small. Behind the 19 per cent figure, for example, are just 2,000 families who had someone move into paid work in the 12 months after May 2013.
29. In a press release in November 2014, DWP claimed, *"More than 12,000 households have made the choice to move into work or stop claiming Housing Benefit because of the benefit cap."* The UK Statistics Authority investigated this claim and concluded that, *"the available numerical evidence does not demonstrate a particularly strong causal link between the Benefit Cap and the decisions made by individuals about moving into work .... As a result, our view is that it might have been more appropriate to adopt more cautious wording in the press statement."*<sup>12</sup>

### Interviews with affected claimants

30. DWP also commissioned the Cambridge Centre for Housing & Planning Research to undertake in-depth interviews with 50 households affected by the cap. Half of those interviewed had actually moved into employment. In its summary, DWP claims that these interviews found, *"half reported that they had looked harder for work, broadened the type of work they were willing to accept, tried to increase their hours of work, or started to look for work in response to the cap."*<sup>13</sup>

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<sup>11</sup> The Benefit Cap: a review of the first year, (DWP, December 2014)

<sup>12</sup> <http://www.statisticsauthority.gov.uk/reports---correspondence/correspondence/letter-from-sir-andrew-dilnot-to-jonathan-portes-171214.pdf>

<sup>13</sup> The Benefit Cap: a review of the first year, (DWP, December 2014)

31. This research was designed to help understand the impact of the Benefit Cap, but, the author herself makes it clear that *“It is not possible to draw robust generalisations from a small sample such as this.”*<sup>14</sup> Despite this caveat, DWP has repeatedly used the responses to this survey to endorse its view that the cap has dramatically improved work incentives. DWP has never commissioned research specifically on work incentives amongst capped disabled people and lone parents.

#### IPSOS Mori Survey

32. DWP also commissioned IPSOS Mori to survey over 1000 households affected by the cap in February 2014 (Wave 1). Follow-up interviews were conducted with 468 of those in August 2014, to see what changes in their circumstances and attitudes had taken place. DWP’s summary report highlights the finding that the proportion looking for work increased from 24 per cent in Wave 1 to 38 per cent in Wave 2. As with the in-depth interviews, however, the researchers added a caveat, stating that, *“it is important to keep in mind that results from wave 2 are based on a specific group of claimants and reflect the characteristics of this group at a specific point in time. They will therefore not necessarily be representative of the entire affected claimant population as reflected by official statistics published on the Benefit Cap.”*<sup>15</sup>

33. DWP’s summary downplays both this caveat and the revelation that around one-third of those affected told IPSOS-Mori they were spending less on “household essentials”. Perhaps unsurprisingly, it has decided against commissioning any further research into the health and well-being of families affected by the cap.

#### Moving house

34. DWP also emphasised the finding that only 14 per cent of those in scope for the cap in May 2013 had moved house, compared to around 11 per cent for a group just under the cap level. IPSOS-Mori’s finding that the proportion of affected households saying they were looking to move house actually fell from 42 per cent in Wave 1 (February 2014) to 36 per cent in Wave 2 (August 2014) was claimed to provide further evidence fears of widespread homelessness had proved unfounded.

35. This figure should come with the same caveat about it being an unrepresentative sample. More importantly, it doesn’t actually identify all moves. Short-distance moves where the claimant stays within the same postcode sector are not counted. This includes families who, in order to stay in the same area, have downsized and therefore overcrowded themselves. The relatively small numbers from this cohort who have moved might also be explained by DHPs having covered some of the Housing Benefit shortfall and temporarily forestalling the need to move.

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<sup>14</sup> In-Depth interviews with people affected by the benefit cap (DWP, 2014)

<sup>15</sup> Post-implementation effects of the Benefit Cap (Wave 2 survey)

## Institute for Fiscal Studies Analysis

36. In 2014, the Institute for Fiscal Studies (IFS) peer-reviewed DWP's evaluation of the cap. It later concluded that, *"we have fairly robust evidence that about 5 per cent of those affected by the previous cap responded to that cap by moving into work. An even smaller fraction – and only those who lost particularly large amounts of income – moved house in response."*<sup>16</sup> DWP has never challenged The IFS' conclusion.
37. At the Work & Pensions Select Committee hearing in November, the Secretary of State said, *"Since 2013, just over 79,000 households have been capped and of those 23,500 have gone into work."* However, when asked about The IFS figure of 5 per cent, he said, *"As I remember the IFS line, they said that was something slightly more complex, that that 5% was not just about those who had got into work, it was the difference."* The Permanent Secretary then added, *"I think they were looking at some rates of change of something. I cannot quite remember what it is."*<sup>17</sup>
38. A month later the Secretary of State wrote to the Select Committee Chairman, clarifying that, *"The figure of 5 per cent is representative of how much more likely capped households are to flow into employment after a year compared to similar uncapped households and implies causation"*.<sup>18</sup>
39. Despite this admission, DWP persists in over-claiming the impact of the Benefit Cap. For example, DWP's latest press release boldly proclaims *"Figures published on 2 February 2017 show that 26,000 households who had their benefits capped have moved into work"*<sup>19</sup>, yet again implying causation, which the UK Statistics Authority denies. And at a recent Work & Pensions Questions, the Secretary of State said, *"The research we have done shows that households that have been capped are 41% more likely to go into work than similar, uncapped households. So the policy is very successful in encouraging people to get back to work."*<sup>20</sup> DWP's refusal to engage meaningfully with independently verified statistics is deeply troubling.
40. More recently, the IFS has concluded that while it was almost impossible for the previous £500 a week benefit cap to affect an out-of-work couple with 2 young children renting in the private sector, unless they lived in London, they could now *"be affected by the new cap in more than half of local areas across England"*.

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<sup>16</sup> <https://www.ifs.org.uk/publications/8717>

<sup>17</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/work-and-pensions-committee/department-for-work-and-pensions-annual-report-and-accounts/oral/44128.html>

<sup>18</sup> <http://www.parliament.uk/documents/commons-committees/work-and-pensions/7.%20Letter%20from%20The%20Rt%20Hon%20Damian%20Green%20regarding%20the%20benefit%20cap%2020.12.16.pdf>

<sup>19</sup> <https://www.gov.uk/government/news/benefit-cap-restores-fairness-to-the-system>

<sup>20</sup> Hansard 20 February 2017

## Discretionary Housing Payments

41. In Parliamentary debates, ministers repeatedly argued that the increased budget for DHPs would support those households most affected. However, the sums provided for both the original cap and the lower one are nowhere near enough to do so.
42. In 2012, the National Audit Office (NAO) reported that DHPs only add up to six per cent of the savings due to be made by the HB reforms and concluded that *“it is not clear how the current level of funding for DHPs has been determined.”*<sup>21</sup> When challenged over this shortfall during the debate on the Benefit Cap regulations, DWP Minister, Mark Hoban MP conceded that, *“... money should be used to support only those claimants who cannot move immediately into work or more affordable accommodation; it should **not** be used to meet every shortfall.”*<sup>22</sup>
43. This DHP funding has also been available to those affected by the “Bedroom Tax” and caps on LHA, including the Shared Accommodation Rate, as well as those affected by the Benefit Cap. The amount of DHP specifically for Benefit Cap cases was £65 million in 2013/14, £45 million in 2014/15 and £25 million in 2015/16.
44. The delayed roll-out of the Benefit Cap from August 2013, meant that there was a little less pressure on DHPs than anticipated and some authorities were able to substantially meet the shortfalls of many of those affected. It was much harder in 2014/15 as the Benefit Cap was in force for all 12 months. Many DHP funding pots were significantly oversubscribed and many authorities prioritised applications from those social tenants affected by the “Bedroom Tax” or homeless households in TA.
45. These trends continued into 2015/16. In response to our Freedom of Information requests, London’s boroughs revealed that £8.5 million of the £21.8 million DHP funding spent supporting Benefit Cap claimants in 2014/15 went to homeless households in TA, despite the proportion of those affected who were homeless being well below the 40 per cent figure this equates to. We believe that private tenants are less likely to know about DHPs and that those who do find it much harder to obtain an award. DWP’s own research in late 2014 showed that nearly half of those affected by the Benefit Cap had not heard of DHPs at all.<sup>23</sup>
46. Most boroughs now have tighter eligibility criteria in their DHP policy. For example, since 2013 Westminster’s policy has institutionalised “conditionality” for DHP awards. Its policy states, *“We will normally treat any claimant receiving JSA as if they have the potential to move immediately into work. Therefore **no DHP will be awarded from when the Benefit Cap applies.**”* Furthermore, while *“those not*

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<sup>21</sup>Managing the impact of Housing Benefit Reform (National Audit Office, November 2012)

<sup>22</sup>House of Commons - Second Delegated Legislation Committee, 06 November 2012: Column 26

<sup>23</sup>In-Depth interviews with people affected by the benefit cap (DWP, 2014)

*receiving JSA (i.e. claimants receiving Income Support, Incapacity Benefit or ESA) will be considered for support from DHP .... Claimants will be expected to make a contribution of £20 per week from the total non-Housing Benefit income received”.*

47. After confirming in the July 2015 Budget that the lower Benefit Cap would be implemented, the Chancellor announced DHP funding would be £800 million over the next five years to mitigate its impact and those of previous cuts. In the Autumn Statement, he then announced an additional £70 million DHP funding for 2018/19 and 2019/20. However, this extra money was for vulnerable people in supported accommodation affected by his decision to cap the Housing Benefit payable on social housing to the LHA rate. In other words, the extra funding accompanies significant new burdens, leaving the nationwide and local pots stretched ever more thinly.
48. In 2016/17, £40 million was earmarked to help those affected by the Benefit Cap. In 2017/18, the figure increases to £67.5 million. These sums are distributed on the basis of a complicated calculation, firstly splitting the pot 45 per cent for the original cap and 55 per cent for the new lower cap, and secondly allocating the latter sum on the basis of each local authority’s proportion of total Annual Managed Expenditure (AME) reduction for the new cap.<sup>24</sup>
49. While the £27.5 million increase in DHP funding for households affected by the Benefit Cap in 2017/18 looks generous on paper, it masks some significant cuts in overall funding on the ground. For example, Westminster’s total DHP allocation in 2016/17 was £2.7 million, but in 2017/18, it will be £1.4 million – a 47 per cent cut in funding. Similarly, Kensington & Chelsea got £1.3 million in 2016/17, but will only get £895,000 in 2017/18 – a 33 per cent reduction.
50. In anticipation of this cut, Westminster has revised its DHP policy again. The changes put a greater emphasis on successful claimants making a financial contribution to the rent shortfall; a reduction from 6 to 3 months in the duration of awards to assist working household; and limiting awards to help those affected by LHA reforms to exceptional cases only. We are in no doubt the combined effect will be a further increase in the number of tenants falling into rent arrears and facing eviction.
51. As with the original cap, the slightly later than envisaged implementation of the lower cap meant that the funding was only really needed for four or five months of 2016/17, and so more generous awards could be made to those affected. That cannot be repeated in 2017/18. The level of DHP funding being made available is clearly insufficient to support those worst affected by the new cap, particularly given the continuing impact of the Bedroom Tax on council / housing association tenants.

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<sup>24</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/497986/s1-2016.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/497986/s1-2016.pdf)

## Supreme Court Judgment & UN Convention on the Rights of the Child

52. All the evidence shows that the Benefit Cap disproportionately hits lone parents. CPAG/Shelter's challenge to the cap as being unlawful under Article 14 of the European Convention on Human Rights and also in contravention of the UN Convention on the Rights of the Child (UNCRC) ultimately failed in the Supreme Court. However, three of the five judges found that the cap was not compatible with the UNCRC's stipulation to treat the "best interests" of the child as the primary consideration. Two of these three judges also found the cap to be discriminatory against women. In her concluding statement, Lady Hale stated,

*"The prejudicial effect of the cap is obvious and stark. It breaks the link between benefit and need. Claimants affected by the cap will, by definition, not receive the sums of money which the state deems necessary for them to adequately house, feed, clothe and warm themselves and their children. Furthermore, the greater the need, the greater the adverse effect .... **This prejudicial effect has a disproportionate impact upon lone parents, the great majority of whom are women** ....."*<sup>25</sup>

53. Responding to this judgment, the then Work & Pensions Secretary, Iain Duncan Smith MP, said, *"I am delighted that the country's highest court has agreed with this government and overwhelming public opinion that the benefit cap is right and fair."*<sup>26</sup> This claim is not true. The Supreme Court found the cap is lawful, not that it is "right and fair". Lord Carnwath, who was one of the three judges who accepted the cap is not unlawful, actually concluded that *"the Secretary of State has **failed to show how the regulations are compatible with his obligation to treat the best interests of children as a primary consideration.**"*<sup>27</sup> He also called on the Government's review of the Benefit Cap to address the implications for its obligations under the UNCRC.

54. In its Fifth Periodic Report on the UK last summer, the UN Committee on the Rights of the Child specifically raised serious concerns that *"recent amendments to the Child Tax Credit Act 2002, the Welfare Reform Act 2012, the Welfare Reform & Work Act 2016 have limited the entitlement to child tax credits and social benefits (the household benefit cap and bedroom tax) regardless of the needs of the households."* It concluded that the UK Government should *"where necessary, revise the mentioned reforms in order to **fully respect the right of the child to have his or her best interests taken as the primary consideration, taking into account the different impact on different groups of children, particularly those in vulnerable situations.**"*<sup>28</sup>

55. Z2K strongly supports the new legal challenge against the lower Benefit Cap.

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<sup>25</sup> [https://www.supremecourt.uk/decided-cases/docs/UKSC\\_2014\\_0079\\_Judgment.pdf](https://www.supremecourt.uk/decided-cases/docs/UKSC_2014_0079_Judgment.pdf)

<sup>26</sup> <https://www.gov.uk/government/news/supreme-court-finds-in-favour-of-benefit-cap>

<sup>27</sup> <https://www.supremecourt.uk/cases/docs/uksc-2014-0079-judgment.pdf>

<sup>28</sup> <http://www.crae.org.uk/media/93148/UK-concluding-observations-2016.pdf>